

RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

| Type of RID | Requested Response Time | DSD Assigned RID # |
|--------------------------------------------------------|-------------------------------------------------------|--------------------|
| Customer RID <input type="checkbox"/> | 24 hours <input type="checkbox"/> | |
| Internal Staff RID <input checked="" type="checkbox"/> | 5 working days <input type="checkbox"/> | |
| | As time available <input checked="" type="checkbox"/> | |

REVISED DATE: 11/23/09

1. Project Name: Pay Day Loan Agency

2. Project Number: None

(Plat #, Zoning Case #, etc.)

3. Project Street Address: None

(If not available nearest intersection of two public streets.)

4. Applicant Name: Luke McClanahan, Vice President
Sun Loan Company/ Brundage Management Co

5. Applicant Address: 254 Spencer Lane (78201)

6. Applicant Telephone #: (210) 863-9208

7. Applicant e-mail Address: luke@brundagemgt.com

8. Rule in Question: Unified Development Code Appendix A: Definitions and Rules of Interpretation - Pay Day Loan Agency:

Pay-day loan agency. An establishment providing loans to individuals in exchange for personal checks as collateral.

9. Applicant's Position:

(Including date position presented and name of city staff point of contact)

Date: 9/21/2009 **Contact:** Luke McClanahan **Contact Telephone #:** (210) 863-9208

Sun Loan Company/ Brundage Management Co. requested a permit based on a signature loan use; however the Unified Development Code (UDC) is silent on this particular use and where it is permitted. Applicant does not agree that the signature loan use should be considered under the pay day loan agency definition. Per Section 35-311 (b)(1), No building permit shall be issued for a use not specifically mentioned or described by category in the Use Matrix.

10. Staff Finding:

(Including date of finding and name of city staff person formulating finding)

Date: 9/21/2009 **Contact:** Leslie Zavala **Contact Telephone #:** (210) 207-0215

The UDC does not address the specific use of signature loan agencies. A clarification is needed to provide consistency for customers and staff. Per Section 35-311 (b)(3):

“The Director of Development Services shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described.” ... “Uses not listed as a permitted or specific use permit shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Director of Development Services shall determine whether a materially similar use exists in this section.”

11. Staff Position:

(Including date position presented internally and name of city staff person formulating position)

Date: 9/21/2009 **Contact:** Leslie Zavala **Contact Telephone #:** (210) 207-0215

The purpose of this RID is to provide clarification for loan agency uses not currently defined in the UDC Appendix A: Definitions and Rules of Interpretation, or listed in Table 311-2 Nonresidential Use Matrix.

A UDC amendment was recently adopted by San Antonio’s City Council on April 3, 2008 (Ord.2008-04-03-0265.) This amendment removed and added items to Table 311-2 Nonresidential Use Matrix and added definitions for a pay day loan agency and check cashing facility.

Table 311-2 Nonresidential Use Matrix currently lists the following financial related uses:

| TABLE 311-2 NON-RESIDENTIAL USE MATRIX | | | | | | | | | | | | | |
|----------------------------------------|------------------------|-----|-----|----|-----|-----|-----|---|---|-----|-----|-------|-----------------|
| | PERMITTED USE | O-1 | O-2 | NC | C-1 | C-2 | C-3 | D | L | I-1 | I-2 | ERZ/D | (LBCS Function) |
| | | | | | | | | | | | | | |
| Service | Bank | | P | P | P | P | P | P | | | | P | 2200 |
| Service | Check Cashing Facility | | | | S | S | S | | | | | P | 2600 |
| Service | Pay-Day Loan Agency | | | | S | S | S | | | | | P | 2220 |

Appendix A of the UDC defines pay day loan agency as:

- an establishment providing loans to individuals in exchange for personal checks as collateral.

It defines check cashing facility as:

- a person or business that for compensation engages in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose.

There are currently no definitions for loan agency or bank/credit union.

It is clear from previous City Council discussions that the intent of the recent amendment was to require a specific use authorization for non-bank lending uses.

In order to determine if a use is a loan agency and not a bank/credit union, staff would defer to Texas Statutes, specifically, the Texas Finance Code. The Texas Department of Banking regulates all bank facilities. The Texas Credit Union Department regulates all state credit unions. The National Credit Union Association regulates all federal credit agencies. These agencies are charged with regulating depository lenders.

A bank/credit union would be identified as a depository lender regulated by the Texas Department of Banking, the Texas Credit Union Department and/or the National Credit Union Association. For purposes of this RID, non-bank/non-credit union uses are those identified as non-depository lenders. Specifically, a non-depository lending use would be identified as any loan-only use not regulated by the Texas Department of Banking, the Texas Credit Union Department and/or the National Credit Union Association.

The North American Industry Classification Manual ("NAICS") was used to determine if the non-depository lending use could be considered materially similar to another use specifically identified in the Use Matrix. The following uses are within the same industry classification of the NAICS Code 522291:

- Consumer finance companies (i.e., unsecured cash loans)
- Finance companies (i.e., unsecured cash loans)
- Loan companies (i.e., consumer, personal, small, student)
- Personal credit institutions (i.e., unsecured cash loans)
- Personal finance companies (i.e., unsecured cash loans)
- Small loan companies (i.e., unsecured cash loans)
- Student loan companies

Based on the NAICS industry classification, staff has determined that the non-depository lending use is materially similar to the Pay Day Loan Agency use that exists in the UDC Use Matrix. Based on the documentation provided by the applicant, staff's position is that the proposed subject signature loan use is a non-depository lending use and would require a Specific Use Authorization.

12. Departmental Policy or Action:

(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director of Development Services)

Date of policy/action:

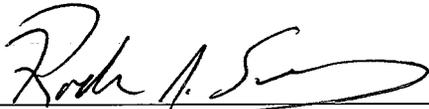
Effective Date of policy/action:

The Director concurs with the staff recommendation to provide clarification for loan-only agency uses and directs the issuance of RID 84 as follows:

Any non-depository lending (*loan-only*) agency would be identified as any loan agency not regulated by the Texas Department of Banking, the Texas Credit Union Department and/or the National Credit Union Association. For the purpose of interpretation of Table

311-2 Nonresidential Use Matrix and based on the NAICS industry classification, any non-depository lending (*loan-only*) use will fall under the pay-day loan agency use listed in Table 311-2 Nonresidential Use Matrix. These uses require a specific use authorization ("S") in the following zoning districts: "C-1", "C-2", and "C-3".

Furthermore, a UDC amendment will be forthcoming to codify this RID by modifying the definition of pay-day loan agency if needed, and change the pay-day loan agency use matrix entry to a broader, more general term which will also be defined. (Staff has determined that there is no need for clarification of the check cashing facility definition.)



Roderick Sanchez, AICP, CBO

Director – Planning & Development Services Department